

## Environmental Protection Agency

## § 80.990

Virgin Islands between January 1, 1998 and December 31, 2000, inclusive.

M = Compliance margin.

(ii) The baseline volume associated with the baseline value calculated in paragraph (e)(2)(i) of this section shall be calculated using the methodology in paragraph (b)(2) of this section for the gasoline described in paragraph (e)(2)(i) of this section.

(f) All refinery or importer baseline toxics value calculations shall be conducted to two decimal places.

(g) Any refinery for which oxygenate blended downstream was included in compliance calculations for 1998–2000, pursuant to § 80.65 or § 80.101(d)(4), shall include this oxygenate in the baseline calculations for toxics value under paragraph (a) of this section.

(h) *Baseline adjustment.* (1) A toxics baseline determined differently than described in paragraphs (a) through (e) of this section may be allowed upon petition by the refiner or importer and approval by the Administrator or designee. The petition must be included with the baseline submittal under § 80.910.

(2) A toxics baseline adjustment petition shall, at minimum, be accompanied by:

(i) Unadjusted and adjusted baseline fuel parameters, applicable toxics values, and volumes; and

(ii) A narrative describing how the circumstances during 1998–2000 materially affected the baseline toxics value calculated under paragraph (a) of this section. The narrative shall also describe and show the calculations, and the reasoning supporting the calculations, used to determine the adjusted values.

(i) The compliance margin, M, that will be added to the toxics baseline calculated according to paragraph (a) of this section shall be equal to:

(1) –0.7% for reformulated gasoline or RBOB;

(2) 2.5 mg/mile for conventional gasoline.

[66 FR 17263, Mar. 29, 2001, as amended at 72 FR 60582, Oct. 25, 2007]

## §§ 80.920–80.980 [Reserved]

### RECORDKEEPING AND REPORTING REQUIREMENTS

#### § 80.985 What records shall be kept?

(a) The recordkeeping requirements specified under § 80.74 applicable to refiners and importers of reformulated gasoline, RBOB and/or conventional gasoline apply under this subpart, however, duplicate records are not required.

(b) *Additional records that refiners and importers shall keep.* Beginning January 1, 2002, any refiner for each of its refineries, and any importer for the gasoline it imports, shall keep records that include the following information:

(1) The calculations used to determine the applicable compliance baseline under § 80.915.

(2) The calculations used to determine compliance with the applicable toxics requirements per § 80.815.

(3) A copy of all reports submitted to EPA under § 80.990, however, duplicate records are not required.

(c) *Additional records importers shall keep.* Any importer shall keep records that identify and verify the source of each batch of Certified Toxics-FRGAS and Non-Certified Toxics-FRGAS imported and demonstrate compliance with the requirements for importers under § 80.1030(o).

(d) *Length of time records shall be kept.* The records required in this section shall be kept for five years from the date they were created.

(e) *Make records available to EPA.* On request by EPA the records required in paragraphs (a), (b) and (c) of this section shall be provided to the Administrator's authorized representative. For records that are electronically generated or maintained the equipment and software necessary to read the records shall be made available, or upon approval by EPA, electronic records shall be converted to paper documents which shall be provided to the Administrator's authorized representative.

#### § 80.990 What are the toxics reporting requirements?

Beginning with the 2002 averaging period, and continuing for each averaging

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period thereafter, any refiner or importer shall submit to EPA the information required in this section, and such other information as EPA may require.

(a) *Refiner and importer annual reports.* Any refiner, for each of its refineries and/or aggregate(s) of refineries, and any importer for the gasoline it imports, shall:

(1) Include in its reformulated gasoline toxics emissions performance averaging report per §80.75(e) the compliance baseline and incremental volume,  $V_{inc}$ , for its reformulated gasoline and RBOB, combined, per §80.850.

(2) Include in its conventional gasoline report per §80.105 the compliance baseline and incremental volume,  $V_{inc}$ , for its conventional gasoline per §80.850.

(3) Exclude Certified Toxics-FRGAS under §80.1030, if an importer.

(b) *Additional reporting requirements for importers.* Any importer shall report the following information for Toxics-FRGAS imported during the averaging period:

(1) The EPA refiner and refinery registration numbers of each foreign refiner and refinery where the Certified Toxics-FRGAS was produced; and

(2) The total gallons of Certified Toxics-FRGAS and Non-Certified Toxics-FRGAS imported from each foreign refiner and refinery.

### EXEMPTIONS

## § 80.995 What if a refiner or importer is unable to produce gasoline conforming to the requirements of this subpart?

In appropriate extreme and unusual circumstances (e.g., natural disaster or Act of God) which are clearly outside the control of the refiner or importer and which could not have been avoided by the exercise of prudence, diligence, and due care, EPA may permit a refiner or importer, for a brief period, to not meet the requirements of this subpart, separately for reformulated gasoline (and RBOB, combined) and conventional gasoline, provided the refiner or importer meets all the criteria, requirements and conditions contained in §80.73 (a) through (e).

## 40 CFR Ch. I (7–1–08 Edition)

## § 80.1000 What are the requirements for obtaining an exemption for gasoline used for research, development or testing purposes?

Gasoline used for research, development or testing purposes is exempt from the requirements of this subpart if it is exempted for these purposes under the reformulated and conventional gasoline programs, as applicable.

### VIOLATION PROVISIONS

## § 80.1005 What acts are prohibited under the gasoline toxics program?

No person shall:

(a) *Averaging violation.* Produce or import gasoline subject to this subpart that does not comply with the applicable toxics requirement under §80.815.

(b) *Causing an averaging use violation.* Cause another person to commit an act in violation of paragraph (a) of this section.

## § 80.1010 [Reserved]

## § 80.1015 Who is liable for violations under the gasoline toxics program?

(a) *Persons liable for violations of prohibited acts—*(1) *Averaging violation.* Any person who violates §80.1005(a) is liable for the violation.

(2) *Causing an averaging violation.* Any person who causes another party to violate §80.1005(a), is liable for a violation of §80.1005(b).

(3) *Parent corporation liability.* Any parent corporation is liable for any violations of this subpart that are committed by any of its wholly-owned subsidiaries.

(b) *Persons liable for failure to meet other provisions of this subpart.* (1) Any person who fails to meet a provision of this subpart not addressed in paragraph (a) of this section is liable for a violation of that provision.

(2) Any person who causes another party to fail to meet a requirement of this subpart not addressed in paragraph (a) of this section, is liable for causing a violation of that provision.